

APPEAL NO. 041657
FILED AUGUST 30, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 9, 2004. With respect to the issues before him, the hearing officer determined that the appellant (claimant) reached maximum medical improvement (MMI) on April 30, 2003, with an impairment rating (IR) of five percent as certified by the designated doctor. In her appeal, the claimant essentially argues that the designated doctor's certification is against the great weight of the other medical evidence, and that she has not yet reached MMI and, thus, her IR was prematurely assigned. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in giving presumptive weight to the designated doctor's report, and in determining that the claimant reached MMI on April 30, 2003, with an IR of five percent in accordance with that report. The difference in the opinions of the designated doctor and of Dr. S and Dr. W is attributable to the fact that the designated doctor determined that the claimant had reached MMI while Dr. S and Dr. W do not believe that the claimant has reached MMI because they believe that the claimant has not received appropriate treatment to attain MMI. We cannot agree that the reports of Dr. S and Dr. W constitute the great weight of the other medical evidence contrary to the designated doctor's report. Rather, this is a case where there is a genuine difference of medical opinion between the designated doctor and Dr. S and Dr. W as to whether the claimant has reached MMI. We have long held that by giving presumptive weight to the designated doctor, the 1989 Act provides a mechanism for accepting the designated doctor's resolution of such differences. Texas Workers' Compensation Commission Appeal No. 001659, decided August 25, 2000; Texas Workers' Compensation Commission Appeal No. 001526, decided August 23, 2000. Accordingly, the hearing officer did not err in giving presumptive weight to the designated doctor's report and adopting the April 30, 2003, MMI date and five percent IR.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE TRAVELERS INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge